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Attorneys for Plaintiff,
AMERICAN HEALTHTECH, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AMERICAN HEALTHTECH, INC.,

Plaintiff,

v.

THE HEALTH TECHNOLOGY CENTER, INC.,

Defendant.

CASE NO. C 06-06458 SBA

**STIPULATION AND ~~PROPOSED~~
ORDER CONTINUING INITIAL
CASE MANAGEMENT
CONFERENCE AND RELATED
DEADLINES**

Judge Sandra Brown Armstrong

Pursuant to Civil Local Rules 6-2, 7-12, and 16-2(e), Plaintiff American Healthtech, Inc. and Defendant The Health Technology Center, Inc. (collectively, "the Parties") submit this Stipulation requesting an Order Continuing the Initial Case Management Conference and Related Deadlines in the above captioned matter.

The Complaint in this matter was filed on October 16, 2006. The Order Setting Initial Case Management Conference and ADR Deadlines set the Initial Case Management Conference for January 23, 2007 and provided that the first deadlines, including ADR Certification, were set for January 2, 2007. This case was reassigned pursuant to a Reassignment Order entered October 24, 2006. A Case Management Scheduling Order for Reassigned Civil Cases was dated October 27, 2006 and reset the Initial Case Management Conference for January 24, 2007,

1 though all other dates in the Order Setting Initial Case Management Conference remained the
2 same.

3 Plaintiff filed a Motion, with consent of Defendant, on December 18, 2006, requesting a
4 continuance of the initial case management conference and related deadlines. That Motion was
5 granted by Order dated December 19, 2006. That Order rescheduled the initial case management
6 conference to April 25, 2007. Related deadlines were rescheduled accordingly, with the deadline
7 to meet and confer, file an ADR Certification, and file either a Stipulation to ADR Process or a
8 Notice of Need for ADR Phone Conference set for April 4, 2007.

9 The Parties' settlement discussions are continuing, in an effort to resolve this matter
10 privately. Along with that settlement effort, the Parties have agreed to extend the time for
11 Defendant to Answer or otherwise respond to the Complaint until June 4, 2007.

12 Because of the progress of their settlement negotiations, the Parties believe it is
13 inefficient for them to be required to select a formal ADR process, prepare initial disclosures, or
14 for the Court to conduct an initial Case Management Conference at this time. The Parties further
15 believe that they are near to a resolution, and may be able to resolve this matter privately before
16 taking any more of the Court's time, and before the Defendant would be required to respond to
17 the Complaint.

18 Therefore, the Parties hereby respectfully request the Court grant an Order to postpone
19 the Case Management Conference 60 days, to a date no sooner than June 25, 2007. The Parties
20 further request that all related deadlines be reset based on the new initial Case Management
21 Conference date.

22 The proposed revised case management schedule, per Civil Local Rule 16-2(d)(3), is:

23 6/4/2007

Last day to:

- 24 • meet and confer re: initial disclosures, early settlement,
ADR process selection, and discovery plan
- 25 • file ADR Certification signed by Parties and Counsel
(form available at www.adr.cand.uscourts.gov)
- 26 • file either Stipulation to ADR Process or Notice of Need
for ADR Phone Conference (forms available at
27 www.adr.cand.uscourts.gov)

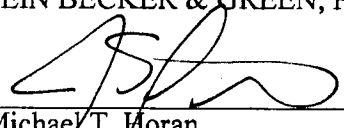
6/18/2007 Last day to complete initial disclosures or state objection in Rule 26(f) Report, file Case Management Statement (form available at www.cand.uscourts.gov), and file Rule 26(f) Report

6/25/2007 Initial Case Management Conference (CMC)

DATED: March 8, 2007

Respectfully submitted,

EPSTEIN BECKER & GREEN, P.C.

By: 
Michael T. Moran
Jamie S. Platto

Attorneys for Plaintiff
AMERICAN HEALTHTECH, INC.

DATED: March 8, 2007

Respectfully submitted,

SONNENSCHN NATH & ROSENTHAL LLP


By: 
Donald M. Carley

Attorneys for Defendant
THE HEALTH TECHNOLOGY CENTER, INC.

PURSUANT TO STIPULATION, IT IS SO ORDERED:

Good cause being shown, the Initial Case Management Conference ("CMC") is hereby continued to ~~June 25, 2007~~ at 3:00 p.m.. The CMC will be conducted by conference call June 27, 2007 pursuant to the Case Management Scheduling Order dated October 27, 2006. The clerk is hereby directed to reset all related dates, such that the last day to complete initial disclosures or state objections in the Rule 26(f) Report, and to file the Case Management Statement is June 18, 2007; and the last day to meet and confer, file the ADR Certification, and file either a Stipulation to ADR Process or a Notice of Need for ADR Phone Conference is June 4, 2007.

DATED: 4/2/07


The Honorable Sandra Brown Armstrong
United States District Judge

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**

2. My business address is One California Street, 26th Floor, San Francisco, California 94111-5427.

3. I served copies of the following documents (specify the exact title of each document served):

STIPULATION AND [PROPOSED] ORDER CONTINUING INITIAL CASE MANAGEMENT CONFERENCE AND RELATED DEADLINES

4. I served the documents listed above in item 3 on the following persons at the addresses listed:

Martin P. Michael, Esq.
 Sonnenschein Nath & Rosenthal LLP
 1221 Avenue of the Americas
 25th Floor
 New York, NY 10020-1089

Attorneys for Defendant

5. a. ☐ **By personal service.** I personally delivered the documents on the date shown below to the persons at the addresses listed above in item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party delivery was made to the party or by leaving the documents at the party's residence between the hours of eight in the morning and six in the evening with some person not less than 18 years of age.

b. ☒ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 4 and (*specify one*):

(1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid on the date shown below, or

(2) ☒ placed the envelope for collection and mailing on the date shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Francisco, California.

c. ☐ **By overnight delivery.** I enclosed the documents on the date shown below in an envelope or package provided by an overnight delivery carrier and addressed to the person at the addresses in item 4. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

- d. ☐ **By messenger service.** I served the documents on the date shown below by placing them in an envelope or package addressed to the person on the addresses listed in item 4 and providing them to a professional messenger service for service. (A declaration by the messenger must accompany this proof of service or be contained in the Declaration of Messenger below.)
- e. ☐ **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents on the date shown below to the fax numbers of the persons listed in item 4. No error was reported by the fax machine that I used. A copy of the fax transmission, which I printed out, is attached.
- f. ☐ **By e-mail or electronic transmission.** Based on an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent on the date shown below to the e-mail addresses of the persons listed in item 4. I did not receive within a reasonable time after the transmission any electronic message or other indication that the transmission was unsuccessful.

6. I served the documents by the means described in item 5 on *(date)*: March 8, 2007

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

3/8/07

Clara Chun



DATE

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

DECLARATION OF MESSENGER

- ☐ **By personal service.** I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in item 4. I delivered the documents on the date shown below to the persons at the addresses listed in item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package, which was clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence between the hours of eight in the morning and six in the evening with some person not less than 18 years of age.

At the time of service, I was at least 18 years of age. I am not a party to the above referenced legal proceeding.

I served the envelope or package, as stated above, on *(date)*: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)